

TOWN OF BUFFALO
Marquette County
State of Wisconsin

ORDINANCE

CHAPTER 9

HEALTH AND SANITATION

January 2005

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SECTION 1 – TITLE/PURPOSE

The title of this ordinance is the Town of Buffalo Health and Sanitation Ordinance. The purpose of this ordinance is for the Town of Buffalo to regulate by permit and penalty the storing of certain junked motor vehicles in the Town Buffalo.

SECTION 2 - FINDINGS

The town has found it necessary to regulate by ordinance the storage and disposal of automobiles, tires, junk and miscellaneous waste due to the fact that there has been a proliferation of unlicensed junkyards, tire piles and dumps of miscellaneous materials within the town. The proliferation presents a threat to the public health and safety of the citizens of the town and to the natural environment and property values of the town. The provisions of this article are adopted pursuant to the authority granted to the town by Wis. Stats. §§ 59.55(5), 59.70(1), 59.54(21), 84.31(2)(b), (9), 175.25, and 342.40. This article shall not apply to farm machinery which is located on a bonafide, operating farm.

SECTION 3 – AUTHORITY

The town board of the Town of Buffalo has the specific authority under s. 175.25, Wis. stats. and general authority under its village powers to adopt this ordinance.

State law reference(s)--Regulation of junkyards generally, Wis. Stats. § 84.31; junked or junk vehicle defined, Wis. Stats. § 340.01(25g), (25j).

SECTION 4 – ADOPTION OF ORDINANCE

The town board of the Town of Buffalo, by this ordinance, adopted with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority for the town to regulate and permit storage of certain junked motor vehicles in the town.

SECTION 5 – DEFINITIONS

- A. Abandon means to leave without claimed ownership for 30 days or more.

- B. Highway means any highway, road, street, or other public way, regardless of classification.
- C. Household appliance means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- D. Junk Parts means scrap metal, metal alloy, wood, concrete, synthetic or organic material or waste, 10 or more tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any junked, ruined, dismantled, wrecked, unlicensed, unregistered, or inoperative motor vehicle or machinery, or any part thereof. This definition of junk includes used tires, parts of dismantled buildings, as well as parts of buildings or other structures. Any of the above items used in a bona fide agricultural operation are excluded from this definition.
- E. Junk Motor Vehicle means a motor vehicle that is incapable of operation or use upon a highway and that has no resale value except as a source of parts or scrap or a vehicle that an insurance company has taken possession of or title to if the estimated cost of repairing the vehicle exceeds its fair market value.
- F. Junkyard means any place maintained, owned, operated or used for the storage, keeping, processing, buying or selling of junk, refuse or solid waste of any kind. Junkyard also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles that are visible from any portion of a public highway. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- G. Motor Vehicle means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle that is self-propelled except a vehicle operated exclusively on a rail, with or without a current registration issued by the State of Wisconsin or other state to the owner of the vehicle.
- H. Solid waste means any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food wastes and other organics, boxes, barrels and other containers, tires and other like materials.
- I. Town means the Town of Buffalo, Marquette, County, Wisconsin.
- J. Town board means the board of supervisors for the Town of Buffalo, Marquette County, Wisconsin and includes designees of the board authorized to act for the board.
- K. Town clerk means the clerk of the Town of Buffalo, Marquette County, Wisconsin.
- L. Traveled way means that portion of a public highway designed for the movement of a motor vehicle, shoulders, and roadside parking, rest, observation areas, and other areas immediately adjacent and contiguous to the traveled portion of the roadway.
- M. Wis. stats. means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION 6 – COVERAGE

- A. No person, unless exempt under Section 7 of this ordinance, may accumulate or store any junked motor vehicle or junk parts within 500 feet of the center line of any town highway in the town, or within 875 feet of the center line of any county trunk, state trunk, or federal highway without obtaining a junked motor vehicle permit from the town.
- B. The town, having village powers, requires all other persons storing junked motor vehicles or junked parts, not exempt under this ordinance as noted in Section 8, to obtain a junked motor vehicle permit regardless of the junked motor vehicle or junked parts location in the town.
- C. The fee for issuance of a junked motor vehicle permit shall be established by resolution of the town board at not less than \$50.00 nor more than \$100.00 per permit. The fees shall be established annually by the town board prior to January 1. The term of the permit shall be from July 1 of the year of issue to June 30 of the next year. The permit shall be issued by the town board prior to any person accumulating or storing any junked motor vehicle or junk parts in the town subject to this ordinance.

SECTION 7 – APPLICATION/PERMIT

The application and permit shall designate the legal premises in the town subject to the permit. The permit may be amended without charge if the permittee changes premises in the town. However, the permit is not transferable from one person to another. The application and permit shall contain the following:

- A. The name of the applicant.
- B. The address of the subject premises.
- C. The premises telephone number, if any, and the residential telephone number of the applicant, if any.
- D. The age of the applicant.
- E. The legal description of the premises.
- F. The manner of storing and transporting junked motor vehicles and junk parts.
- G. The projected number of proposed junked motor vehicles and the number of years for accumulation, storage, and removal of these motor vehicles.

SECTION 8 – EXEMPTIONS

Persons are exempt from this permit requirement if they meet the specific requirements of s. 175.25, Wis. stats. as determined by the town board. Moreover, any person with three (3) or less junked motor vehicles owned or controlled by that person and stored on the premises owned or leased by that person in the town, where the vehicles are not registered by the State of Wisconsin or any other state, shall be exempt from this ordinance. This ordinance shall not apply to farm machinery which is located on a bonafide, operating farm, provided the farm machinery is needed for farming operations.

SECTION 9 – ORDINANCE/PERMIT PROVISIONS

- A. Persons subject to this ordinance shall comply with ss. 84.31 and 175.25, Wis. stats.
- B. The applicant and any other person subject to this ordinance are subject to all of the following:
 - 1. No person shall be issued or reissued a junked motor vehicle permit in the town until the appropriate application fee has been paid to the town clerk.
 - 2. No person shall be issued or reissued a junked motor vehicle permit in the town who has failed to properly and fully complete and submit to the town clerk the application form as developed and provided by the town.
 - 3. No person shall be issued or reissued a junked motor vehicle permit, and a permittee may have the permit revoked after a public hearing by the town board, if the applicant for the junked motor vehicle permit or permittee has done any of the following:
 - a. Failed to effectively screen all junked vehicles from public view by enclosing all junked vehicles within a properly and fully installed and maintained building on the premises as determined by the town board.
 - b. Failed to prevent and remove inappropriate advertising on the building at the premises as determined by the town board.
 - c. Failed to install and maintain adequate fire safety equipment on the premises as determined by the town board.
 - d. Failed to properly drain all motor vehicle tanks and engines on the premises as determined by the town board.
 - e. Failed to install, provide, and maintain adequate sanitary facilities on the premises as determined by the town board.
 - f. Failed to comply with operational hours at the premises as determined by the town board.
 - g. Failed to install, provide, and maintain adequate and necessary physical structures and equipment and personnel as determined by the town board and failed to comply with conditions, rules, and safeguards as determined by the town board to prevent public nuisances and to protect the public health and safety to persons residing near the premises or persons entering the premises, including public nuisances at the premises associated with noise, dust, odors, fires, explosions, water pollution, air pollution, and erosion.
 - h. Failed to comply, as determined by the town board, with any town or county ordinances.

- i. Failed to prevent open fires or burning of solid waste or hazardous waste at the premises. This includes the burning of any motor vehicles and motor vehicle parts.
- j. Failed to install, provide, and maintain adequate landscaping surrounding the premises as determined by the town board.
- k. Failed to provide and maintain adequate security and operational personnel to prevent trespassing onto the premises.
- l. Failed to limit the number of junked motor vehicles on the premises as authorized by the town board in the permit.
- m. Failed to install and maintain adequate physical structures and operational controls as determined by the town board to prevent trespassing, littering, and to prevent private nuisances on private and public lands adjacent to the premises.
- n. Failed to provide adequate personnel, as determined by the town board, to remove noxious weeds, standing water, and other debris during and after daily operations at the premises.
- o. Failed to allow physical access to the premises by the town board or its designee for inspection purposes upon 72 hours notice to the applicant or permittee.

SECTION 10 – PENALTY PROVISION

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

SECTION 11 – SEVERABILITY

Each of the provisions of the ordinance is severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

SECTION 12 – EFFECTIVE DATE

This Ordinance is effective on publication.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 10th day of January 2005.

Effective Date: March 16, 2005

Gene R. Mucciolo, Chair

Jan Banicki, Supervisor

Fred Wollenberg, Supervisor

Attest: _____

Rebecca Kearns, Town Clerk